



**UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
FREEDOM OF INFORMATION ACT BRANCH**
Washington, D.C. 20570

Via email

August 25, 2021

Re: FOIA Request NLRB-2021-001174

Dear Richard A. Yorke (Michigan Nurses Association):

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on July 28, 2021, in which you seek "Certification of Representative" records for 24 employers in the health care industry. You assumed financial responsibility for the processing of your request in the amount of \$500.00.

We acknowledged your request on July 28, 2021.

Various searches for responsive records were conducted, and two responsive records are attached, as explained below.

For UP Health System-Marquette and Allegan General Hospital, your request is granted. For UP Health System-Marquette, a search was conducted in the Agency's electronic casehandling system, NxGen, which generally maintains NLRB case records from 2011 to present, and the certification was located.

For Allegan General Hospital, the certification record was located through a search of previously processed FOIA requests in our request tracking system, FOIAonline; our search located a response which provided the requested record. The Agency's Region 7 Detroit Office had previously conducted a search for any paper records which were still maintained by that office, and the certification was located.

There are no responsive records maintained by the Agency for the following entities:

- Aurora Medical Center Bay Area
- UP Health System-Portage
- Aspirus Ontonagan Hospital
- Aspirus Iron Wood
- Gogebic Medical Care Facility
- Baraga County Memorial Hospital

- OSF St. Francis Hospital
- Bay Area Medical Center
- Schoolcraft Memorial Hospital
- War Memorial Hospital
- Mid-Michigan Medical Center-Alpena
- McLaren Lapeer Region
- VNA Health Services and Blue Water Hospice, St. Clair County, MI
- Bixby Hospital
- Herrick Hospital
- McLaren Home Care-Ingham County, MI
- Sturgis Hospital
- Three Rivers Health
- North Ottawa Community Health System
- Mid-Michigan Medical Center- Gratiot
- McLaren Central Michigan
- Munson Healthcare-Manistee

The electronic searches consisted of querying in NxGen, the Agency's website, and prior FOIA requests processed by this office, as well as through the Agency's custom document search tool (Integrated Search, or iSearch.) However, none of these electronic searches identified any certification records or case files responsive to your request.

Pursuant to the Agency's record retention and disposition policy, records are retained for a six-year period, which commences at the close of the calendar year during which the case is closed. The records are then destroyed, unless they are selected for permanent retention based on their legal significance. Given the age of the requested cases, a further search was made of the list of permanently retained cases maintained by the Agency's Case Records Unit for cases that closed between 1982 and 2010, and it was confirmed that the requested cases were not selected for permanent retention.

Please be advised that as part of our past practice of due diligence in searching for older records that pre-date our current electronic casehandling system, we had previously directed search inquiries to the Agency's Regional offices to conduct manual searches for potentially responsive paper records that may still be maintained. However, due to the COVID-19 pandemic, the Agency's Regional offices are either closed or operating with skeletal staffs and it is not feasible for our Regional staff to conduct manual searches for any paper records in cases that closed prior to 2012 at this time.

Accordingly, because our available search efforts at this time identified only the two responsive records referenced above, your request is closed.

If in the future, once our Regional offices return to regular opening hours and staffing, you continue to be interested in these records and would like us to conduct such a manual search to identify if any paper records still may exist, you may file a new FOIA request. For information on the status of the Agency's Regional offices, you may access our website at www.nlr.gov.

For the purpose of assessing fees, we have placed you in Category A, commercial use requester. This category refers to requests "from or on behalf of a person who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made, which can include furthering those interests through litigation." NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(1)(v). Consistent with this fee category, you "will be assessed charges to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought." 29 C.F.R. § 102.117(d)(2)(ii)(A). Charges are \$9.25 per quarter-hour of professional time. 29 C.F.R. § 102.117(d)(2)(i).

Two hours of professional time was expended in searching for and reviewing for release the requested material. Accordingly, please remit \$74.00.

Payment Instructions: Due to the COVID-19 pandemic and resulting widespread employee telework at the Agency's Headquarters offices, we are no longer accepting checks or money orders as payment at this time. To submit payment for your FOIA request, please use www.pay.gov. From the www.pay.gov home page, scroll down to the bottom left corner to select "Pay a FOIA Request." Click "See all options" and go to "Filter By Agency" to check the box for the National Labor Relations Board. Continue following instructions on the website. Please remember to include the Invoice Number, which is the NLRB FOIA Case No., and the amount you intend to pay. Further, please be advised that all FOIA payments must be paid in full before any future FOIA requests are processed.

You may contact Jodilyn Breirather, the FOIA Specialist who processed your request, at (202) 368-1927 or by email at Jodilyn.Breirather@nlrb.gov, as well as the Agency's FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the FOIA Specialist, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the FOIA Public Liaison is:

FOIA Public Liaison
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: FOIAPublicLiaison@nrlrb.gov
Telephone: (202) 273-0902
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: (202) 741-5770
Toll free: (877) 684-6448
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at:
<https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt
Chief FOIA Officer
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: DLCFOIAAppeal@nrlrb.gov

Any appeal must be postmarked or electronically submitted within 90 days of the date of this letter, such period beginning to run on the calendar day after the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the FOIA Specialist, Attorney-Advisor, FOIA Officer, or the FOIA Public Liaison) and/or

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OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

/s/ Synta E. Keeling

Synta E. Keeling
FOIA Officer

Attachment: (two pages)